IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

COREY GRESHAM, Petitioner, v. MARION FEATHER , Respondent. _____	)	Case No. 3:14-cv-00596-SU ORDER

MCSHANE, Judge:

Magistrate Judge Patricia Sullivan filed a Findings and Recommendation (ECF No. 19), and the matter is now before this court. *See* 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Proceeding *pro se*, petitioner Corey Gresham filed objections to the report. Accordingly, I have reviewed the file of this case *de novo*. *See* 28 U.S.C. § 636(b)(1)(c); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). I find no error and conclude the report is correct.

Petitioner first objects to the denial of his motion for appointment of counsel. Petitioner argues he "was lulled into a false sense of security from the magistrate's positive praise in her order denying appointment of counsel." Objections, 3. As noted by Judge Sullivan in her order denying appointment of counsel, the interests of justice did not support appointing counsel. Based on his petition, his response, and his objections to the Findings and Recommendation, petitioner is certainly able to articulate his grounds for relief. That petitioner's arguments fail on the merits does not mean he was unable to cogently present his arguments.

Additionally, appointment of counsel in this instance would be futile. As pointed out by Judge Sullivan, petitioner is not entitled to habeas relief under 28 U.S.C. § 2241 because he is not in custody in violation of the United States Constitution. Petitioner has no liberty interest in being released prior to the expiration of his sentence. Petitioner does not challenge the constitutionality of his sentence, but merely challenges the Bureau of Prison's determination that he is not suitable for the Residential Drug Abuse Program. Federal courts, however, lack jurisdiction to review the Bureau of Prison's determination to grant or deny a sentence reduction for completion of Residential Drug Abuse Program. *Reeb v. Thomas*, 636 F.3d 1224, 1227 (9th Cir. 2011).

Magistrate Judge Sullivan's Findings and Recommendation (ECF No. 19) is adopted. The petition (ECF No. 1) is DENIED and this is action is dismissed, with prejudice.

A certificate of appealability and leave to proceed *in forma pauperis* on appeal is DENIED as petitioner has not made a substantial showing of the denial of a constitutional right. IT IS SO ORDERED.

DATED this 20th day of August, 2014.

_____/s/ Michael J. McShane _____
Michael McShane
United States District Judge